

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**MAXIE TANARD SIMON, #39798-177,**

Petitioner,

v.

**UNITE STATES OF AMERICA**

Respondent.

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Civil Action No. **3:13-CV-550-L-BK**

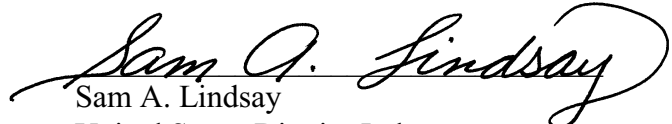
**ORDER**

Maxie Tanard Simon's *pro se* motion for sentence reduction under 18 U.S.C. § 3582(c)(2) was referred to Magistrate Judge Renee Harris Toliver, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") on March 4, 2013, recommending that Simon's motion be recharacterized as a motion to vacate sentence pursuant to 28 U.S.C. § 2255. The magistrate judge further recommended that Simons' motion to vacate sentence under 28 U.S.C. § 2255 be granted, that his sentence be vacated, and that a new sentencing hearing be scheduled. No objections to the Report were filed and the magistrate judge noted in her Report that Simon, through court-appointed counsel, and the Government agree that the section 2255 motion should be granted and that Simon should be resentenced in accordance with the revised penalty provisions of the Fair Sentencing Act ("FSA"), Pub. L. 111-220, 124 Stat. 2372 (2010).

After considering Simon's motion, file, and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants**

motion to vacate sentence pursuant to 28 U.S.C. § 2255, and **vacates** Simon's sentence. The court will schedule a new sentencing hearing by separate order.

**It is so ordered** this 1st day of April, 2013.

  
Sam A. Lindsay  
United States District Judge